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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,889	07/20/2006	Hiroshi Kishi	P/4937-2	9348
7590	01/26/2009			
Robert C. Faber Ostrolenk, Faber, Gerb & Soffen, LLP 1180 Avenue of the Americas New York, NY 10036-8403				EXAMINER BARRY, CHESTER T
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 01/26/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/586,889	KISHI, HIROSHI	
	Examiner	Art Unit	
	CHESTER T. BARRY	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 July 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-19 is/are allowed.
 6) Claim(s) 20-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/20/06</u> . | 6) <input type="checkbox"/> Other: _____ |

USP 5906746 to HELMO describes three approaches for nitrogen removal from wastewater. One method involves denitrification and nitrification accomplished through alternate levels of aeration (col 2 line 25). See also USP 5266200. The denitrification and nitrification processes do not occur simultaneously as claimed. Another method involves simultaneous nitrification in a first compartment at a first aeration level and denitrification in a second compartment at a second aeration level (col 2 line 30). See also USP 5071559. The first and second compartments are not in a single reactor, as claimed. A third method (Helmo's method) involves simultaneous nitrification and denitrification in the same vessel at a substantially constant and controlled aeration level, e.g., 1 mg/L dissolved oxygen. See also FR 2372121 (and Derwent English language Abstract). The method does not involve changing the aeration level from a first aeration level to a second, lower, aeration level.

Accordingly, Claims 1- 19 are allowed.

Claims 21 – 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, it is unclear whether “comprising . . . a single reactor” means “comprising . . . at most a single reactor.”

It is unclear to which structure in the specification the “means plus function” phrases “means for preparing” and “means for treating” correspond under Sec. 112, sixth paragraph.

It is clear that the method steps of claim 1 do not limit the structure of any of claims 20 – 23.

/Chester T. Barry/

Primary Examiner, Art Unit 1797

571-272-1152